

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

MFA.No. 233 of 2001

OPMV.1118/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR

APPELLANT/3RD RESPONDENT:

**SALI HUSSAIN, S/O SHEIKH HUSSAIN,
AGED 37 YEARS, KOLAKKATTU HOUSE,
NEW AZAD ROAD, IRINJALAKUDA.**

BY ADV. SRI.JIJO PAUL

RESPONDENTS/PETITIONER & RESPONDENTS 1 & 2:

- 1. KOCHUTHRESSIA, W/O OUSEPH,
CHIRAYATH KONIKKARA HOUSE,
P.O.KUNHANAMPARA, MARATHAKKARA,
THRISSUR DISTRICT.**
- 2. SREEJITH, S/O SREENIVASAN, VALLATH
HOUSE, KARUVANNUR P.O., THRISSUR DIST.**
- 3. SHEEJAN, S/O KRISHNAN, MANAPPATTY HOUSE,
PALAKKAPARAMBA, KALLUR P.O., ALAGAPPA
NAGAR, THRISSUR DISTRICT.**

**BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 233 of 2001

JUDGMENT

Koshy, J.

The appellant was the registered owner of the motor cycle bearing Reg.No.KL-8/P 8080. While it was driven by the second respondent, an accident occurred, by which the first respondent suffered serious injuries. She claimed a compensation of Rupees one lakh. The Tribunal awarded Rs.30,500/-. The Tribunal found that the accident occurred due to the negligence of the second respondent, who was driving the vehicle. It is not disputed that the appellant was the registered owner of the vehicle at the time of the accident. His case is that his vehicle was stolen much before the accident and a case was registered about three months before the accident and its whereabouts were not known till the date of the accident. The Tribunal accepted the above contention and he was directed to pay

compensation of Rs.25,000/- under Section 140 of the motor Vehicles Act and the balance amount was directed to be paid by the second respondent.

2. The appellant has got a contention that there is no permanent disablement for the first respondent on account of the accident, so as to give compensation under Section 140 of the Motor Vehicles Act. It has come out in evidence that after the accident, the first respondent was taken to the Elite Mission Hospital, Thrissur, as can be seen from Exhibit A2 accident-cum-wound certificate. X-ray revealed that she had suffered an undisplaced fracture to the proximal 3rd of fibula left with fracture to T12 vertebra. Exhibit A6 disability certificate shows that she has got 12% disability. The Tribunal did not accept the percentage of disability certified by the doctor and Rs.10,000/- was granted for disability on a rough and ready estimate. Considering the nature of the fracture of vertebra and fibula, we are of the

opinion that there is permanent disablement and the Tribunal was right in directing the registered owner to deposit compensation under Section 140 of the Motor Vehicles Act. We also note that the Tribunal has awarded compensation with interest at 9% per annum from the date of application. But, the appellant was subsequently impleaded. Therefore, we are of the opinion that interest can be paid for Rs.25,000/- only from the date of award, i.e., 12.1.2001 till its deposit, that too with 8% interest per annum only.

The appeal is allowed in part.

(J.B.Koshy, Judge)

19th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.233 of 2001

JUDGMENT

19th June, 2007